

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kazumichi UOTANI et al.

Application No.: 10/579,731

Confirmation No.: 8869

Filed: May 17, 2006

Art Unit: 1654

For: Sialogogue, oral composition and food
product containing the same

Examiner: Audet, M.A.

REPLY TO NOTICE OF NON-COMPLIANT AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Communication mailed November 5, 2007, applicants provide the following comments.

The Examiner is without authority to issue such a communication. Applicant's have a right to claim their invention in any manner provided by the statute. As noted by the Examiner, applicants have narrowed their claims in order to overcome a prior art rejection. Applicant's are entitled to make such narrowing amendments to the claims. If the Examiner wanted to know how applicant's might want to amend their claims prior to conducting a prior art search, the Examiner could have issued a requirement for election of species. However, no such requirement was made. Had applicant's included a dependent claim containing the questioned molecular weight limitation, the Examiner would have had no basis for issuing a "restriction requirement" to such a claim since the claim would have fallen within the scope of the independent claim(s) from which it depended. The Examiner has cited no authority issuing the communication in question.

For the foregoing reasons, the Examiner is requested to reconsider and withdraw the requirement as it lacks any legal and/or factual basis. If the Examiner persists in this requirement, applicants preserve their rights to file a petition to the Commissioner.

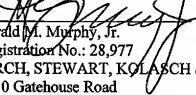
The present submission is being timely filed within thirty (30) days of the mailing date of the Notice. Accordingly, no extension of time fees should be due.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 5, 2007

Respectfully submitted,

By 
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